# Municipal Taxes & Fees: An Introduction

Rachel Bender

**CML Senior Associate Counsel** 



### **Overview**

- Municipal taxes
  - Sales and use taxes
  - Property taxes
  - Occupation taxes
  - Other taxes
- Municipal fees
- Taxpayer Bill of Rights (TABOR)



### Sales & Use Taxes: Background

- Primary municipal revenue source
- Sales tax versus use tax

Statutory versus home rule



#### Key home rule tax cases

- Berman v. Denver, 400 P.2d 434 (Colo. 1965)
- Security Life v. Temple, 492 P.2d 63 (Colo. 1972)
- Winslow v. Denver, 60 P.2d 685 (Colo. 1998)

#### **BUT! An exception for tax appeals**

• Walgreens v. Charnes, 819 P.2d 1039 (Colo. 1991)



### Sales & Use Taxes: \*Collection Methods

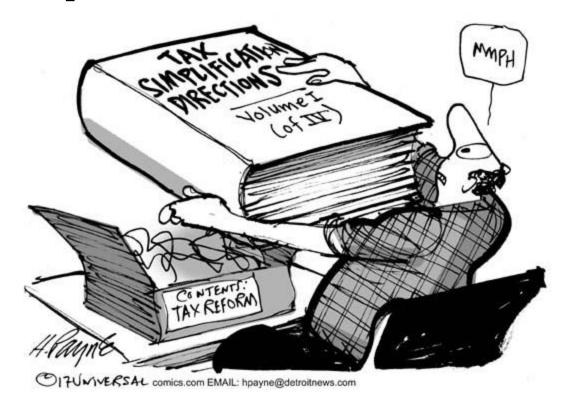
|                    | State Collection   | Self Collection   |
|--------------------|--|---|
| Who                | Statutory municipalities and home rule municipalities that elect to do so                | Home rule municipalities  |
| Controlling laws   | Subject to state's tax base (with flexibility for exemptions), enforcement, and auditing | Local control over tax base,<br>enforcement, and auditing, but<br>simplification efforts encouraged |
| Revenue level      | Recent, limited data suggests there might be increased revenue                           | Historically, self-collection brought in more revenue than state collection                         |
| Staffing/resources | Less staff and resources required  | More staff and resources required   |

<sup>\*</sup>This chart only applies to sales tax. The state does not collect any use tax on behalf of local governments.



### Sales & Use Tax: Simplification

- Colorado's tax system
- Simplification projects
  - Standard definitions
  - Model ordinances
- South Dakota v. Wayfair,
  585 U.S. 162 (2018)
- Sales and Use Tax System (SUTS)





### **Property Tax**



Graphic courtesy of CPR



### **Property Tax**

- The rise and fall of Gallagher
- Revenue limits
  - TABOR (Colo. Const., Art. X, Sec. 20)
  - 5.5% limit (C.R.S. § 29-1-301)
  - 10.5% biennial limit (C.R.S. § 29-1-1701)
- Pros and cons





### **Occupation Tax**

- Tax imposed for the privilege of operating a business or practicing an occupation or profession within the taxing jurisdiction
- Statutory authorization: C.R.S. § 31-15-501(1)(c)
- Pros and cons



### **Other Taxes**

- Lodging tax
- Admissions or entertainment tax
- Real estate transfer tax (generally prohibited)
- Local income tax (generally prohibited)





### **Municipal Fees**

#### Fees

- Charges imposed for the purpose of defraying the cost of a particular government service that benefits the recipient or off-sets the burden of the regulation
- Must be reasonably related to the overall cost of the service
- Tax versus fee



#### Key tax versus fee cases

- Bloom v. City of Fort Collins, 784 P.2d 304 (Colo. 1989)
- Colo. Union of Taxpayers Found. v. Aspen, 418 P.3d 506 (2018)



### **Municipal Fees**

- Impact fees
  - Sheetz v. El Dorado County, 144 S. Ct. 893 (2024)
    - Nollan v. California Coastal Commission, 483 U.S. 825 (1987)
    - Dolan v. City of Tigard, 512 U.S 374 (1994)
  - C.R.S. § 29-20-203
  - C.R.S. § 29-20-104.5
- Special assessments



### **TABOR**





### **TABOR: Elections**

- New and increased taxes
  - Any new tax
  - Tax rate increases
  - Mill levy above prior year
  - Increased assessment rate for a class of property
  - Extension of an expiring tax
  - Tax policy change directly causing a net tax revenue gain
- Debt
- Retention of excess revenue

#### **Key TABOR cases**

- Mesa County v. Ritter, 203 P.3d 519 (Colo. 2009)
- TABOR Foundation v. RTD, 416 P.3d 101 (Colo. 2018)
- MetroPCS v. City of Lakewood, 576 P.3d 139 (Colo. 2025)



### **TABOR: Revenue Limits**

- Revenue limit = amount of revenue collected in prior year adjusted for inflation plus local growth
  - Inflation = Denver-Boulder CPI
  - Local growth = based on net change in actual value of real property
- Debrucing
  - "Without increasing any tax or imposing any new tax, shall the City/Town of \_\_\_\_\_\_ be authorized to collect, keep and spend all revenues which it receives from all sources notwithstanding the limits of Article X, Section 20 of the Colorado Constitution or any other law?"





### **TABOR: Other Provisions**

Prohibitions

- Emergency reserve
- State mandates

Enforcement



## Other Resources

- CML Books
  - Municipal Taxes & Fees
  - TABOR
- Pages on CML's website
  - Standard definitions
  - Economic nexus and marketplace facilitators
- Colorado DOR's SUTS website
- Department of Local Government's <u>Budgeting & Finance website</u>
- Inquiring with CML staff



### Thank you!

Contact me any time at rbender@cml.org

